

UNITED STATES DISTRICT COURT  
DISTRICT OF NEW HAMPSHIRE

Karen L. Bartlett

v.

Civil No. 08-cv-358-JL

Mutual Pharmaceutical  
Company, Inc.

**SUMMARY ORDER**

Bartlett's "Motion for Leave to Supplement in Light of New Rulings" (document no. 277) is granted in part. Bartlett has shown good cause under Fed. R. Civ. P. 16(b)(4) for supplementing her proposed jury instructions, which this court invited her to do in light of its ruling on the parties' expert motions. See Bartlett v. Mut. Pharm. Co., 2010 DNH 123, 30 (doc. 269). She has also shown good cause for supplementing her exhibit list in light of recent evidentiary rulings. It is understandable that she may need to replace evidence that this court excluded with other available evidence, and Mutual (which has not filed any objection) will not suffer any prejudice from the addition of those 10 exhibits. This court expresses no opinion on the admissibility of those exhibits.

Bartlett has not shown good cause, however, for supplementing her expert reliance materials. There was nothing preventing the plaintiff's expert's reliance on, or the proper timely disclosure of, these materials, prior to the "new rulings" cited by Bartlett. That is not merely an attempt to substitute

other available evidence; rather, it appears to be an attempt to lay the foundation for new expert opinions that were not timely disclosed under Fed. R. Civ. P. 26(a)(2). Those opinions and the basis for them could have and should have been disclosed long ago. Discovery is now closed, and trial is only two weeks away. Bartlett's request to add new expert reliance materials at this late stage is denied.

**SO ORDERED.**

A handwritten signature in black ink, reading "Joe Laplante", written over a horizontal line.

Joseph N. Laplante  
United States District Judge

Dated: July 30, 2010

cc: Keith M. Jensen, Esq.  
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